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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,870	02/10/2006	Tomoya Ikeuchi	11630546PUS1	2052
2292 7590 03/20/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
TO, TUAN C				
ART UNIT		PAPER NUMBER		
3663				
NOTIFICATION DATE		DELIVERY MODE		
03/20/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

# Office Action Summary

**Application No.**

10/567,870

**Applicant(s)**

IKEUCHI ET AL.

**Examiner**

TUAN C. TO

**Art Unit**

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.  
4a) Of the above claim(s) 6-40 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 and 2 is/are rejected.  
7) ☒ Claim(s) 3-5 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 10 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/S5108)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of claims 1-5 upon the elected Species Embodiment 1 in the reply filed on 01/14/2008 is acknowledged. The traversal is on the ground(s) that the remaining claims depend, either directly or indirectly from claim 1, which is generic. The applicant further requests the non-elected claims to be rejoined. This is not found persuasive because the species listed in the restriction requirement do not related to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, the species lack the same or corresponding special technical features. In this case, the general inventive concept as set forth in the claims does not define over the prior art (see US 6728633, and US 5911773).

The requirement is still deemed proper and is therefore made FINAL.

An action on claims 1-5 follows:

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The

abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The applicant's current abstract is longer than 150 words. An appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montealegre et al. (US 20050102098A1) and in view of Gorai et al. (US 6282492B1).

Regarding claim 1, Montealegre et al. discloses a map information processing apparatus (see figure 1, navigation apparatus 100) comprising:

- a position detecting means for detecting a position of the map information processing apparatus itself (see paragraph 0026, the positioning system 110 is used to determine the position of a vehicle in which the navigation system 100 is installed);

- a map information storage means for storing map information including road information (see paragraph 0025, the digital map database 108 stores digital map of road);

- a map information acquiring means for acquiring the map information from said map information storage means (see figure 1, the navigation control unit acquires map from the digital map database 108);

- a new road detecting means for determining whether or not a road corresponding to the position of the map information processing apparatus detected by said position detecting means is a new road which does not exist in the road information included in the map information acquired by said map information acquiring means; a new road information storage means for storing new road information (see paragraph 0041, the

new road component 304 detects new roads and add their geographic coordinates to the digital map database 108);

a road update information generating means for generating new road information indicating the new road detected by said new road detecting means, and for generating road update information including information for updating said new road information stored in said new road information storage means and the road information included in the map information stored in said map information storage means (see paragraph 0062);

and a road information updating means for updating the road information included in the map information stored in said map information storage means, and road information included in the new road information stored in said new road information storage means based on the road update information generated by said road update information generating means, and for writing the new road information into said new road information storage means (see paragraph 0056 and 0057, the database error correction component 302 updates the digital map database 108 to reflect the actual route).

Montealegre et al. fails to disclose an intersecting judging means for identifying intersection points where the new road detected by said new road detecting means intersects either roads included in the map information acquired by said map information acquiring means or roads previously detected by said new road detecting means, other than start and end points of the new road;

Gorai et al. discloses a navigation system in which the intersection judging means provided for judging whether or not intersection data for each of the intersections is considered to be contained in the data storage means (see column 6, lines 22-27).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the navigation system as taught by Montealegre et al. to include the teaching of Gorai et al. to achieve a navigation system that has capability of producing route guidance data including intersection and roads corresponding to intersection specified data received from a navigation center even if the navigation system does not have corresponding to the intersection specified data.

As to claim 2, Montealegre et al further discloses that the road update information generating means generates the road update information by defining the intersection judging means as temporary intersections each of which is not determined to be either a grade crossing or a crossing with an overpass or underpass (see figure 5).

***Allowable Subject Matter***

The examiner has found none of the references fairly suggest the limitation of "an intersection determining means for determining whether each of temporary intersections included in the road information included in the map information stored in said map information storage means and those included in the new road information stored in said new road information storage means is a grade crossing or a crossing with an overpass or underpass".

Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusions***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan C To/

Acting Examiner of Art Unit 3663/3600

March 7, 2008



